IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 16703 of 2007(L)

PETITIONER:

1. M.P.ALIAS, CLERICAL ASSISTANT,
   UNIVERSITY COLLEGE OF TEACHER EDUCATION,
   MUVATTUPUZHA.

2. T.P.AJIKUMAR, CLERICAL ASSISTANT ,
   C.E.SECTION, M.G.UNIVERSITY,
   PRIYADARSINI HILLS, KOTTAYAM.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENT:

MAHATMA GANDHI UNIVERISTY,
PRIYADARSINI HILLS, KOTTAYAM,
REPRESENTED BY ITS REGISTRAR.

BY ADV. SRI. T.A. SHAJI, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No.16703/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE FIRST ORDINANCE.

P2. COPY OF THE MEMO DTD.3.3.03 BY THE RESPONDENT.

P3. COPY OF THE SUBMISSION OF P1 DTD.5.2.07.

P4. COPY OF THE ORDER DTD.25.4.07 BY THE RESPONDENT.

P5. COPY OF THE EXTRACT OF SENIORITY LIST OF LAST GRADE EMPLOYEES.

P6. COPY OF THE EXTRACT OF SYNDICATE DECISION DTD.14.6.04.

P7. COPY OF THE GOVT. ORDER DTD.25.1.06.

P8. COPY OF THE ORDER DTD.21.4.07 BY THE RESPONDENT.

P9. COPY OF THE ORDER DTD.22.10.02.

P10. COPY OF THE ORDER DTD.16.6.01.

P11. COPY OF THE ORDER DTD.4.2.02.

P12. COPY OF THE ORDER DTD.13.9.05.

P13. COPY OF THE REPRESENTATION DTD.11.10.07 BY P2 BEFORE THE RESPONDENT.

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///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.16703 of 2007

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Dated this the 31st day of October, 2007

J U D G M E N T

The petitioners are Clerical Assistants with SSLC qualification. As per Exts.P1 and P2, qualified Clerical Assistants are eligible for promotion as Assistant Grade II. According to the petitioners, the 1st petitioner satisfies the eligibility conditions set out in Ext.P2 and therefore, he made Ext.P3 request for promotion. However, without considering his claim, his juniors have been given promotion as per Ext.P4. The 2nd petitioner is also eligible for such promotion, which has not been considered yet. In the meanwhile, by Ext.P8 order, the channel of promotion has been changed. In the above circumstances, the petitioners seek the following reliefs:

> "i) issue a writ of certiorari or other appropriate writ, order or direction, calling for the records leading to Ext.P8 and quash the same;
>
> ii) issue a writ of mandamus or other appropriate writ, order or direction, directing the respondents to promote the 1st petitioner as Assistant Grade II with effect from Ext.P4 on par with his

juniors.

iii) declare that the vacancy of Assistant Grade II are to be filed up in accordance with Ext.P1 adopted as per Ext.P6 by the University."

2. In the counter affidavit filed by the University, in paragraph 5, it is stated thus:

> "5. It is true that the promoted clerical Assistants were juniors to the petitioners. But these promoted Clerical Assistants have acquired the qualification for getting promotion earlier than the petitioners. The 1st petitioner got required qualification before the decision of the Syndicate to stop the existing system of promotion. Hence, the University will consider his case favourably. But in the case of second petitioner he has not completed five year service as a qualified Clerical Assistant. He has passed S.S.L.C. only in 2006."

In view of the above statement in the counter affidavit, the petitioners seek a direction to the respondent to consider Ext.P3 representation filed by the 1st petitioner in the light of the above statement in paragraph 5 of the counter affidavit. The counsel also seeks a direction to the respondent to consider Ext.P13 representation filed by the 2nd petitioner in the light of Ext.P4 and Exts. P9 to P12.

3. I have considered the rival contentions in detail.

4. In view of the statement in paragraph 5 of the counter affidavit, it is only appropriate that the respondent considers the case of the 1st petitioner. Accordingly, the respondent shall

consider and pass appropriate orders on Ext.P3 in the light of the statement in paragraph 5 in relation to the 1st petitioner, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Within the said period, the respondent shall also consider Ext.P13 representation filed by the 2nd petitioner. Both the petitioners shall be afforded an opportunity of being heard before passing orders. The petitioners would be free to rely Ext.P4 and Exts.P9 to P12 or any other documents in support of their contentions, which shall also be considered by the respondent.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.